

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

WILLIAM E. CARPENTER)
Claimant)
VS.)
)
BRUCE BOAN MASONRY)
Respondent)
AND)
)
AMERICAN FAMILY MUTUAL INSURANCE CO.)
Insurance Carrier)

Docket No. 216,263

ORDER

Respondent appeals from a preliminary hearing Order entered by Administrative Law Judge Alvin E. Witwer on October 15, 1996.

ISSUES

On appeal respondent asserts that claimant has not established that he suffered a compensable accident in 1996 and has failed to prove timely notice.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the preliminary hearing transcript and considering the arguments made in briefs submitted by the parties, the Appeals Board concludes that the Order by the Administrative Law Judge should be affirmed.

Claimant asserts that he suffered bilateral carpal tunnel syndrome from his work as a brick layer. The respondent contends that claimant's injury occurred in 1995 and, therefore, claimant's notice and written claim were untimely. The evidence established, however, claimant continued to work until June 10, 1996, at which point he ceased work because of the symptoms. Accordingly, the date of accident should be treated as June 10, 1996. Berry v. Boeing Military Airplanes, 20 Kan. App.2d 220, 885 P.2d 1261 (1994).

The evidence further established that respondent knew of claimant's injuries before claimant left work on June 10, 1996. Respondent's actual knowledge satisfies the notice requirements of K.S.A. 44-520.

At the preliminary hearing respondent disputed the timeliness of the written claim. Application for hearing was filed September 3, 1996, within two hundred days from the June 10, 1996 accident. Accordingly the Appeals Board also agrees with and affirms the finding of the Administrative Law Judge that claimant made timely written claim.

AWARD

WHEREFORE, the Appeals Board finds the Order entered by Administrative Law Judge Alvin E. Witwer dated October 15, 1996 should be, and hereby is, affirmed.

IT IS SO ORDERED.

Dated this ____ day of December 1996.

BOARD MEMBER

c: Michael R. Wallace, Shawnee Mission, KS
Joseph R. Ebbert, Kansas City, KS

WILLIAM E. CARPENTER

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Alvin E. Witwer, Administrative Law Judge
Philip S. Harness, Director